



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604 660-7000
Fax: 604 660-7033
www.alc.gov.bc.ca

January 11, 2016

ALC File: 54271

James Bogusz
201 – 1640 Electra Blvd.
Sidney, BC V8L 5V4

Dear Mr. Bogusz:

Re: Application to Exclude Land from the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decision of the Agricultural Land Commission (Resolution #8/2016) as it relates to the above noted application. As agent, it is your responsibility to notify your client accordingly. A sketch plan depicting the decision has been attached.

Please send two (2) copies of the final survey plan to this office. When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the plan. At that time the Commission will also advise the Registrar of Land Titles that the new lot created by the subdivision is excluded from the ALR.

Further correspondence with respect to this application is to be directed to Liz Sutton at (Elizabeth.Sutton@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per: 

Colin J. Fry, Chief Tribunal Officer

Enclosures: Reasons for Decision (Resolution #8/2016)
ALC Resolution #732/1999
Sketch plan

cc: Town of Sidney (File: 2125 Beacon Avenue West)
BC Assessment - Victoria

54271d1



AGRICULTURAL LAND COMMISSION FILE 54271

REASONS FOR DECISION OF THE ISLAND PANEL

Application submitted pursuant to s. 30(1) of the *Agricultural Land Commission Act*

Applicant:

**Her Majesty the Queen in Right
of Canada Represented by the
Minister of Transport
c/o Victoria Airport Authority
(the “Applicant”)**

Agent:

**James Bogusz,
Victoria Airport Authority
(the “Agent”)**

Application before the Island Regional Panel:

**Jennifer Dyson, Panel Chair
Honey Forbes
Clarke Gourlay**

THE APPLICATION

[1] The legal description of the property involved in the application is:

Parcel Identifier: 001-013-271

Lot A of Sections 8,9,10,11 and 12, Range 1 East, and Sections 7,8,9,10,11 and 12,

Range 2 East, and of Sections 9,10,11 and 12, Range 3 East, North Saanich

District, Plan 38759

(the "Property")

[2] The Property is 437.8 ha in area (163.4 ha are within the ALR).

[3] The Property is generally described as being the Victoria International Airport property.

[4] The Property is located partially within a designated agricultural land reserve ("ALR") as defined in s. 1 of the *Agricultural Land Commission Act* (the "ALCA").

[5] The Property is located within Zone 1 as defined in s. 4.2 of the *ALCA*.

[6] Pursuant to s. 30(1) of the *ALCA*, the Applicant is applying to exclude from the ALR, 4.4 ha of the Property for the purpose of developing the land as per the Victoria Airport Land Use Plan (the "Application").

[7] On October 16, 2015, the Chair of the Agricultural Land Commission (the "Commission") referred the Application to the Island Regional Panel (the "Panel").

RELEVANT STATUTORY PROVISIONS

[8] The Application was made pursuant to s. 30(1) of the *ALCA*:

30 (1) An owner of land may apply to the commission to have their land excluded from an agricultural land reserve.

[9] The Panel considered the Application within the context of s. 6 of the *ALCA*:

6 The following are the purposes of the commission:

- (a) to preserve agricultural land;
- (b) to encourage farming on agricultural land in collaboration with other communities of interest; and
- (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

EVIDENTIARY RECORD BEFORE THE PANEL

[10] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Evidence from any third parties of which disclosure was made to the Agent
4. Previous Commission Planning Review history
5. Agricultural capability map, ALR context map and satellite imagery

All documentation noted above was disclosed to the Agent in advance of this decision.

[11] At its meeting of August 10, 2015, the Town of Sidney Council resolved to forward the Application to the Commission for consideration.

[12] The Panel reviewed a previous Planning Review involving the Property:

Planning Review ID: 2305
Legacy File: 29036
(Victoria International Airport
Land Use Plan, 1999)

To consider the draft land use plan for the Victoria Airport, prepared by Victoria Airport Authority. With respect to a 45 ha portion of the airport lands that lie within the Town of Sidney, the Victoria Airport Land Use

Plan proposed runway aviation services and commercial uses on the southwest corner of the Pat Bay Highway and Beacon Avenue intersection. In its review of the Victoria International Airport Land Use Plan, the Commission made the following comment with respect to the lands at the corner of Beacon Avenue and the Pat Bay Highway:

"In view of the limited value of this area, given the existing industrial development that already exists, the Commission does not believe that it has much potential for agriculture and it is therefore not opposed to the proposed land uses".

Resolution #732/1999.

[13] The Panel reviewed a relevant application adjacent to the Property:

Application ID: 15487
Legacy File: 33178
(Victoria International Airport,
2000)

To remove 10 ha from the ALR to enable the airport to use it for industrial purposes. It was noted that the Commission previously reviewed a land use plan involving a number of properties in the area including the properties subject to this application. It was felt that given the existing industrial development that already exists, it did not believe the land has much potential for agriculture and is therefore not opposed to the proposed exclusion and land use. The application was approved on the grounds that given the industrial development that already existed, the Commission did not believe the land had much potential for agriculture. Resolution #231/2000.

SITE VISIT

[14] On November 3, 2015, the Panel conducted a drive by site visit in accordance with the *Policy Regarding Site Visits in Applications* (the "Site Visit").

APPLICANT MEETING

[15] On November 3, 2015, the Panel conducted a meeting with the Applicant (the "Applicant Meeting") in accordance with s. 22(1) of the Regulation. The Applicant Meeting was held at the Airside Operations Centre located at 9751 Dakota Road, North Saanich, BC. Those in attendance were the Panel members, Commission Staff Liz Sutton and Gordon Bednard and the Agent Mr. James Bogusz.

Mr. Bogusz explained the retail development proposed for the 4.4 ha area under exclusion application. The airport property is currently hayed by Pendray Farm and some portions are used for grazing. The area under application for exclusion is only used for hay. Mr. Bogusz stated that if approved, next steps would include amending the Official Community Plan and zoning bylaws for the excluded area to allow for commercial use, public consultation, and discussing Ministry of Transportation and Infrastructure requirements.

FINDINGS

[16] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The improved agricultural capability ratings identified on CLI map sheet 92B/11 for the mapping units encompassing the portion of the Property proposed for exclusion are Class 2; more specifically (7:2D – 3:2DW).

Class 2 - land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

The limiting subclasses associated with this parcel of land are D (undesirable soil structure), and W (excess water).

[17] The Panel finds that the portion of the Property proposed for exclusion is comprised of land with good agricultural capability.

[18] Despite its finding in the preceding paragraph, the Panel must consider a suite of factors to ensure that keeping land in the ALR is defensible in the long term. Admittedly, many proposed exclusion applications succeed or fail following an assessment of agricultural capability. However, on occasion more in-depth assessment is needed when an external factor(s) could potentially influence the suitability of the Property to be used for agriculture. The Panel recognizes that the exclusion area is partially bound by Stirling Way which the Commission previously allowed dedication of in the early 1980s, Pat Bay Highway, and a non-ALR portion of the Property to the north; and that the use of adjacent land for aviation purposes limits the agricultural options and suitability of the proposed 4.4 ha exclusion area.

[19] Further, the Panel referred to the planning review of the Victoria International Airport Land Use Plan and concurred with the previous comments of the Commission contained in Resolution #732/1999 and outlined above in paragraph 12. While the comments of Resolution #732/1999 preferred development for airport related purposes, the Panel's assessment of limited agricultural suitability of the area remains the same, regardless of the resulting land use(s) once excluded.

[20] The Panel noted that the area to the north of Beacon Avenue was also identified in Resolution #732/1999 as having limited agricultural potential, and was subsequently excluded by Resolution #231/2000.

[21] The Panel reiterates the comments of the Commission in Resolution #732/99 with respect to preserving areas identified to include agricultural uses in the Victoria Airport Land Use Plan.

[22] The Panel received several letters from the public expressing concern about the proposal with respect to appropriate location of retail within the community and loss of agricultural



land. The Panel has addressed the agricultural concerns, however, matters relating to location of commercial development fall outside of the purview of the Commission and is more appropriately considered and addressed by the Town of Sidney.

DECISION

[23] For the reasons given above, the Panel approves the Application to exclude 4.4 ha area from the ALR.

[24] The Application is approved subject to the following conditions:

- a. the preparation of a subdivision plan to delineate the area to be excluded per the drawing submitted with the Application; and
- b. the subdivision plan being completed within three (3) years from the date of release of this decision.

[25] This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

[26] Panel Chair Jennifer Dyson concurs with the decision.
Commissioner Honey Forbes concurs with the decision.
Commissioner Clarke Gourlay concurs with the decision.

[27] Decision recorded as Resolution #8/2016.

A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the *Agricultural Land Commission Act*.



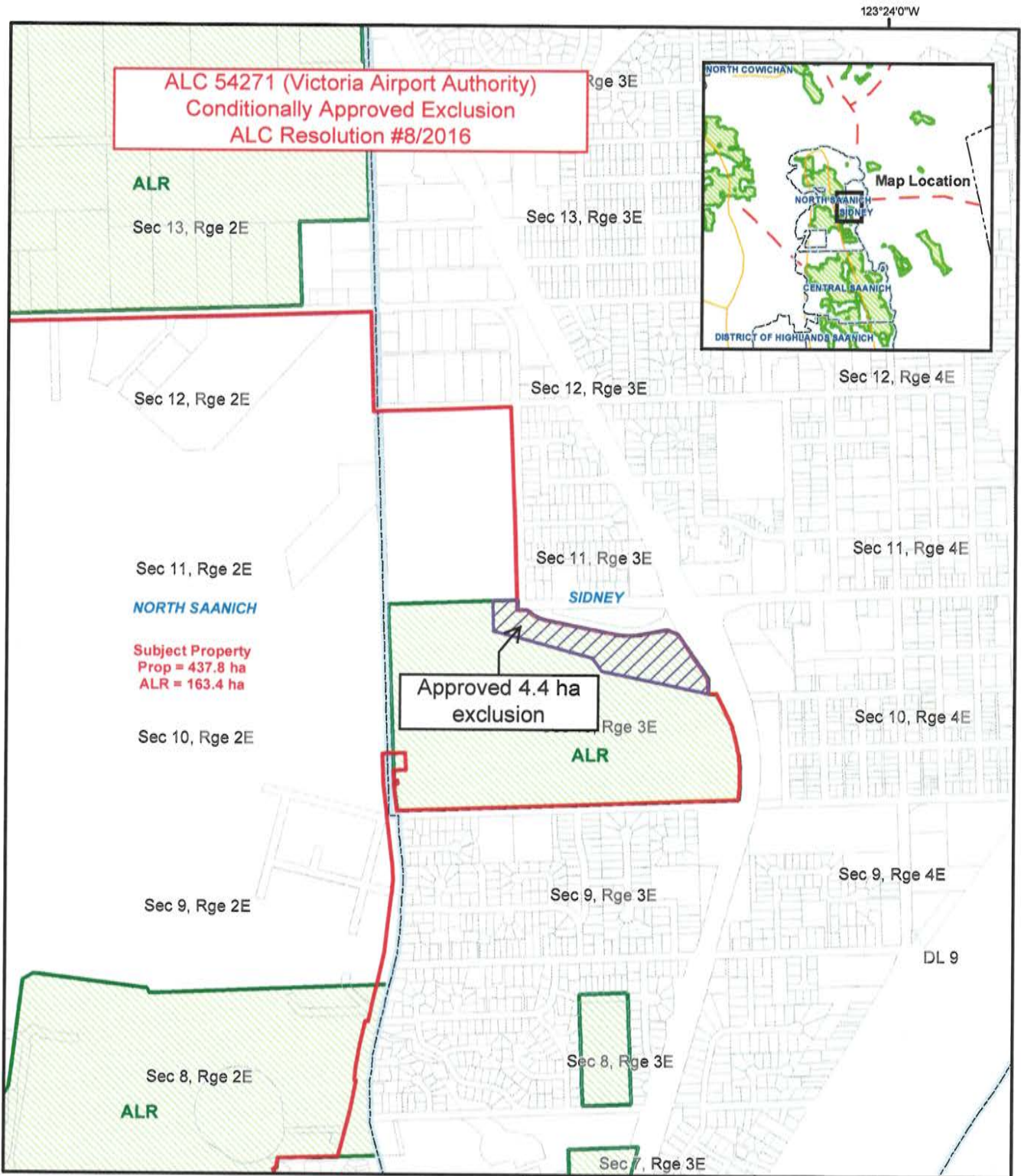
Upon instruction of the Panel, I have been authorized to release the Reasons for Decision by Resolution #8/2016. The decision is effective upon release.

A handwritten signature in blue ink, appearing to be "C. Fry", written over a horizontal line.

Colin J. Fry, Chief Tribunal Officer

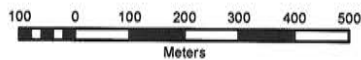
January 11, 2016

Date Released



ALC Context Map

Map Scale: 1:12,500



ALC File #:	54271
Mapsheet #:	92B/11
Map Produced:	Oct 22, 2015
Regional District:	Capital

Reply to the attention of Roger Cheetham

November 26, 1999

P.K. (Keith) Jackman, Chair
Victoria Airport Authority
201 - 1640 Electra Boulevard
Sidney, BC V8L 5V4

Dear Sir:

Re: Development of Airport Lands within the Agricultural Land Reserve
Our Ref: C - 29036

With reference to the meeting that took place in our office on 19th October, 1999 the proposals for the development of the airport have now been considered by the Commission. In terms of Resolution No. 732/99 the Commission wishes to thank the Victoria Airport Authority for its willingness to consult with the Commission in the development of the plan. The Commission is pleased to note the changes made to the plan to recognise agriculture as a permitted land use on lands within the ALR and in respect of specific issues the Commission comments as follows: (The areas described are similar to those referred to in our letter of 25th July, 1994, and are shown on the enclosed map.)

South Western Area. (62 ha) The Commission is pleased to note the change to provide for agriculture. It suggests that the Environmental Protection Zone protecting the stream be reduced in width to 30 metres (it is at present about 60 metres).

Southern Area (55 ha) The Commission appreciates the need to provide for the expansion of activities related to the airport and notes that the Airport Terminal and Airport Reserves embrace most of this area. The Commission is nevertheless pleased to note that Agriculture is a permitted use in both of these Reserves bearing in mind that it will be many years before it becomes necessary that this area be developed for airport related activities. The Commission would encourage you to recognise the agricultural potential of this area and suggests that you give consideration to a phasing plan that provides for the expansion of the facilities in such a way that the agricultural use is prolonged as long as possible.

P.K. (Keith) Jackman, Chair
page 2

Area within Sidney (45 ha) In view of the limited value of this area, given the existing industrial development that already exists, the Commission does not believe that it has much potential for agriculture and it is therefore not opposed to the proposed land uses. It would however encourage the limitation of such uses to those that are airport related.

Area to north of Mills Road (4 ha) The Commission is pleased to note the change from the previous plan, which recognises the agricultural value of this land.

Yours truly,

AGRICULTURAL LAND COMMISSION

per:

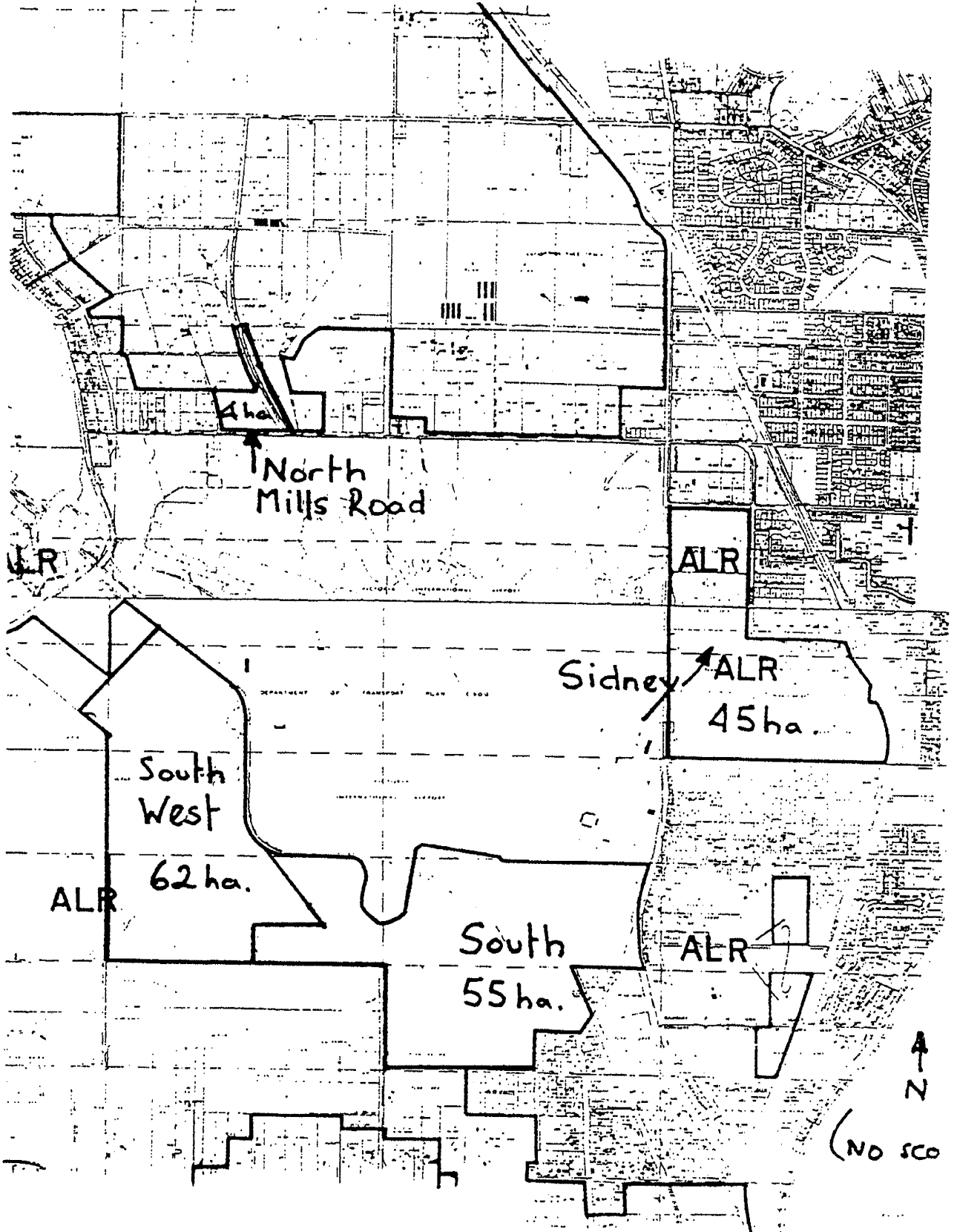


Alan Chambers, Chair

Encl.

cc: Michael Betts, Regional Agrologist, Ministry of Agriculture and Food, Sidney
District of North Saanich
Town of Langley

RC/mh
☎ 29036d1



Plan showing location of areas referred in letter

MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

Meeting held at the B.C. Agricultural Land Commission Office, 4940 Canada Way, Burnaby, B.C. on the 24th day of November, 1999.

Present:	A. Chambers	Chair
	M. Thompson	Vice Chair
	J. Bakker	Commissioner
	G. Horn	Commissioner
	D. Taylor	Commissioner

FILE # C - 29036

LOCAL GOVERNMENT: Districts of North Saanich and Sidney, Capital Regional District

ISSUE: The consideration of a new draft land use plan for the Victoria Airport, recently prepared by Victoria Airport Authority.

DECISION REQUIRED: To provide the Airport Authority with the views of the Commission on the plan - there are no major concerns.

BACKGROUND: Significant areas totalling approximately 166 ha lie within the ALR and are primarily located around the southern and eastern peripheries of the airport. The agricultural capability ratings are high with generally Class 4 unimproved and Class 2 improved ratings.

The Commission considered plans for the development of the airport in 1994, its response being attached as Annex. A. The Commission expressed concern at that time about the non-airport related activities proposed for the ALR lands and urged that changes be made to the plan to recognise the long term agricultural resource value of much of the land.

Since that time the airport management has been taken over by the Victoria Airport Authority and a new draft plan for the development of the airport has been drawn up. This was discussed at a meeting held in the Commission's offices on 19 October, 1999 attended by the Chair and General Manager of the Commission, and, representing the Airport Authority, the President and Chief Executive Officer, Richard Paquette and the Chair, Keith Jackman. It was agreed at that meeting that the new plan would be put before the Commission and its views on the plan would be provided to the authority. As the airport is operated on a long term lease from the Federal government it remains under Federal jurisdiction and hence is not subject to the Agricultural Land Commission Act. However, the airport authority is desirous of working with the Commission and in, as far as possible, accommodating its suggestions. As explained below the Authority has recognised some of the suggestions made by the Commission in its earlier comments and has made changes to the plan. Some of the Commission's suggestions have, however, not resulted in change. The new plan shows the long term land use for the airport - the existing plan shows development phased over a number of time periods.

COMMENT: The following table compares to the two plans (See Annex B for the location of each area)

ALR Block	Old Plan	New Plan	Comment
South Western Block - 62ha	<u>Golf Course</u> (short term), <u>Airside and Groundside Commercial</u> (long term)	<u>Airport Reserve</u> - Agricultural, cemetery, natural area, recreational, meteorological installations, navigational aid facilities, utilities; <u>Environmental Protection Zone</u> - about 60 metres wide along river <u>Air Terminal Reserve</u> - a range of uses related to airport activities	It is the intention to encourage agriculture in this area. At present perhaps half is leased to the Pendray Farm. This area is the most significant for agriculture and the change is to be welcomed. The airport related uses have extended into the areas south of the road, whereas before they were confined to northern side.
South - Approx. 55 ha	<u>Public Access and Parking, Air Cargo</u> (some agricultural in short term) on northern side of access road <u>Groundside commercial Commercial-recreational</u> , on southern side of road	<u>Air Terminal Reserve</u> to north of access road and <u>Airport Reserve</u> south of road and in area of baseball diamonds	In that the use of the treed area south of the airport road is now earmarked long term for airport reserve the present plan is slightly better. However the extent of land earmarked for airport facilities seems generous, even in the longer term.
Area within the Town of Sidney - 45 ha	Area north of runway - <u>Groundside and Airside Commercial</u> Runway and area south - mixture of <u>Runway, Airside Commercial and Agricultural</u> at end of runway	<u>Industrial</u> north of runway and <u>Runway Aviation Services and Commercial</u> area in south west corner of Pat Bay Highway and Beacon Ave. intersection.	The area has limited agricultural potential and despite the Commission's earlier comments supporting agriculture in the area south of Beacon Ave. it is not believed that the loss of this area for agriculture would be significant.
Area to North of Mills Road 4 ha	<u>Ground Side Commercial</u> (short term agricultural)	<u>Airport Reserve</u>	The airport authorities have acceded to the Commission's earlier request that this be changed to agriculture.

On the whole the new plan is an improvement. The only concern, and not a major one, relates to the extent of the Airport Terminal Reserve located to the south of the existing terminal facilities. It will probably be many years before the need arises to develop the more peripheral areas and accordingly their use until that time for agriculture should be encouraged.

RECOMMENDATION: That the Victoria Airport Authority be thanked for its willingness to consult with the Commission in the development of the plan; it be advised that the Commission is pleased to note the changes made to the plan to recognise agriculture as a permitted land use on lands within the ALR; and that specifically the Commission comments as follows:

South Western Area. (62 ha) The Commission is pleased to note the change to provide for agriculture. It suggests that the Environmental Protection Zone protecting the stream be reduced in width to 30 metres (it is at present about 60 metres).

Southern Area (55 ha) The Commission appreciates the need to provide for the expansion of activities related to the airport and notes that the Airport Terminal and Airport Reserves embrace most of this area. The Commission is nevertheless pleased to note that Agriculture is a permitted use in both of these Reserves bearing in mind that it will be many years before it becomes necessary that this area be developed for airport related activities. The Commission would encourage you to recognise the agricultural potential of this area and suggests that you give consideration to a phasing plan that provides for the expansion of the facilities in such a way that the agricultural use is prolonged as long as possible.

Area within Sidney (45 ha) In view of the limited value of this area, given the existing industrial development that already exists, the Commission does not believe that it has much potential for agriculture and it is therefore not opposed to the proposed land uses.

Area to north of Mills Road (4 ha) The Commission is pleased to note the change from the previous plan, which recognises the agricultural value of this land.

DISCUSSION: The Commission generally supported the comments contained in the report. It was suggested that the use of the industrial areas be limited to airport related activities.

IT WAS

MOVED BY:	COMMISSIONER	J. Bakker
SECONDED BY:	COMMISSIONER	M. Thompson

That the recommendations be supported and that in respect of the area within Sidney it be suggested that the land uses be limited to those that are airport related.

CARRIED